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11 UNITED STATES BANKRUPTCY COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

14 In re
15 PROFESSIONAL FINANCIAL
INVESTORS, INC., a California
16 corporation; PROFESSIONAL
INVESTORS SECURITY FUND, INC., a
17 California corporation,
18 Debtors.

Case No. 20-30604
(Jointly Administered with Case No. 20-30579)

Chapter 11

**DEBTORS' EMERGENCY MOTION
FOR AN ORDER AUTHORIZING
DEBTORS TO MAINTAIN THEIR
EXISTING BANK ACCOUNTS AND
APPROVING CONTINUATION OF
THEIR CASH MANAGEMENT
SYSTEM**

[Hearing Requested on Shortened Time]

Date: August 5, 2020
Time: TBD
Judge: Hannah L. Blumenstiel
Place: **Telephonic/Video Appearances
Only**
450 Golden Gate Avenue
16th Floor, Courtroom 19
San Francisco, CA 94102

1 **I.**

2 **INTRODUCTION**

3 Professional Financial Investors, Inc. (“PFI”) and Professional Investors Security
4 Fund, Inc. (“PISF” and, together with PFI, the “Debtors”), the debtors in the respective
5 above-captioned bankruptcy cases, move this Court, on an emergency basis, for an interim
6 and final order in the form attached as **Exhibit A**, authorizing the Debtors to maintain their
7 respective bank accounts and cash management systems post-petition. In connection with
8 those requests, the Debtors also seek a waiver of the United States Trustee’s requirement
9 to establish a specific bank account for tax payments.

10 **II.**

11 **PRELIMINARY STATEMENT**

12 The Debtors currently have a total of twenty-eight bank accounts (collectively, the
13 “Debtors’ Accounts”), all of which serve or have served as operating accounts, and the
14 vast majority of which are in PFI’s name. Of these twenty-eight accounts, twenty-three are
15 primarily used to collect rents from tenants at real properties owned by PFI (each a “PFI
16 Real Property” and collectively, the “PFI Real Properties”) and pay the expenses of those
17 properties; two accounts are used by PFI to pay its operating costs, including payroll and
18 other business expenses; and the final three accounts were previously used by PISF for
19 various purposes, but are now dormant.

20 The above accounts and arrangements collectively comprise the Debtors’ cash
21 management system, which enables the Debtors to, among other things, receive rent
22 payments from tenants of the PFI Real Properties, make payments on mortgages secured
23 by the PFI Real Properties, make payments to vendors that provide services to the PFI Real
24 Properties, and generate timely and accurate financial information related to the
25 operations of the PFI Real Properties and the Debtors.

26 The above-described cash management system is essential to the Debtors’
27 operations and business. If the Debtors’ cash management practices and procedures are
28 disrupted, the Debtors’ efforts to maintain their existing operations and restructure their

1 affairs will likely be significantly hampered. The Debtors believe their creditors and the
2 bankruptcy estate would not receive any benefit if the Debtors were required to close the
3 Debtors' Accounts and open new ones.

4 To continue operating effectively post-bankruptcy, the Debtors need continuity in
5 their cash management system and bank accounts. Specially, the Debtors seek to maintain
6 the Debtors' Accounts. The Debtors believe that obtaining an order approving this motion
7 is critical, because absent such an order, (i) PFI would need to advise each of the numerous
8 tenants of the PFI Real Properties to direct their rent payments to a new account, which
9 could create confusion for those tenants and hinder PFI's ability to timely collect rents on
10 the PFI Real Properties, (ii) the Debtors would need to make new arrangements for making
11 payments to vendors of services to the PFI Real Properties, which could cause confusion
12 for those service providers, make them uncomfortable providing services to the PFI Real
13 Properties, and delay the provision of those services which are necessary to maintain the
14 value of the PFI Real Properties, and (iii) the Debtors would need to spend time closing
15 accounts and opening new ones, including dormant accounts, with no corresponding
16 benefit to creditors or the estate.

17 This motion is based on the discussion below, the *Declaration of Michael Hogan in*
18 *Support of the Bankruptcy Filing and Early Case Administration Motions* filed on July 26,
19 2017 as Docket No. 5 (the "First Day Hogan Declaration"), as supplemented by the
20 *Supplemental Declaration of Michael Hogan In Support of the Bankruptcy Filing and*
21 *Early Case Administration Motions* filed concurrently with this motion (the "Supplemental
22 Hogan Declaration" and the First Day Hogan Declaration as supplemented by the
23 Supplemental Hogan Declaration, the "Hogan Declaration"), the other papers of record in
24 this case and upon such further oral and documentary evidence as may be presented prior
25 to or at the time of the hearing on the motion.

1 **III.**

2 **STATEMENT OF FACTS**

3 **A. The Debtors' Background.**

4 On July 16, 2020, Jacques Achsen, Samuel Goldberger, Elizabeth Goldblatt,
5 Arthur Indenbaum, Andrew Michaels, Mary Michaels, and Joel Rubenzahl (the
6 "Petitioning Creditors"), each of which assert that they are creditors of PISF, commenced
7 an involuntary chapter 11 bankruptcy action against PISF, Case No. 20-30579 (the "PISF
8 Case"). On July 26, 2020, PISF filed a consent to the entry of an order for relief in the
9 PISF Case, which this Court entered on July 27, 2020.

10 On July 26 (the "Petition Date"), PFI also commenced its bankruptcy case, Case
11 No. 20-30604, by filing a voluntary chapter 11 petition (the "PFI Case" and together with
12 the PISF case, the "Bankruptcy Cases") and sought joint administration with the PISF
13 Case, which this Court granted on July 27, 2020. The Debtors continue to operate their
14 respective businesses as debtors in possession pursuant to sections 1107(a) and 1108 of the
15 Bankruptcy Code. No official committee has been appointed by the Office of the United
16 States Trustee in either of the Bankruptcy Cases.

17 The First Day Hogan Declaration contains a detailed discussion of the Debtors'
18 background, capital structure, and the events leading to their chapter 11 cases. The
19 discussion contained in the Hogan Declaration is incorporated in this motion as though
20 fully set forth here.

21 **B. The Debtors' Accounts.**

22 The Debtors' Accounts are all maintained at Umpqua Bank ("Umpqua").¹ Umpqua
23 is on the United States Trustee's List of Cooperating Depositories, and consist of the
24 following types of accounts:

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28 ¹ The Debtors have asked Umpqua whether it is able to convert each of the existing
Debtors' Accounts into a debtor in possession account.

SMRH:4825-6646-7268.4

1 1. PFI Real Property-Related Operating Accounts. PFI maintains and controls
2 twenty-three operating accounts that are primarily used for receiving rent payments and
3 paying expenses related to the PFI Real Properties (each a “PFI Real Property Operating
4 Account” and, collectively the “PFI Real Property Operating Accounts”). Twenty-two PFI
5 Real Property Operating Accounts receive rent payments and pay expenses related to just
6 one of the PFI Real Properties. At least one PFI Real Property Operating Account receives
7 rent payments and pays expenses related to more than one of the PFI Real Properties.

8 2. PFI Business Operating Accounts. PFI maintains and controls two operating
9 accounts that it uses to pay its own expenses, including employee wages and salaries
10 (collectively, the “PFI Business Operating Accounts”).

11 3. PISF Business Operating Accounts. PISF maintains and controls three
12 operating accounts that it historically has used to pay the expenses of PISF’s former senior
13 leadership, pay investors that withdrew funds from PISF or hold funds to be used for
14 purchasing interests in real property (collectively, the “PISF Business Operating
15 Accounts”). PISF no longer has any employees and the PISF Business Operating
16 Accounts are currently dormant, although they do currently hold certain funds.

17 A complete list of the Debtors’ Accounts that identifies the type of each account as
18 described in this Motion and includes a redacted account number for each account is
19 attached here to as **Exhibit B**.

20 **C. The Proposed Post-Petition Cash Management System.**

21 The Debtors propose to maintain the existing cash management system with respect
22 to the Debtors’ Accounts as described above with the following changes. First, the
23 signature cards on all of the Debtors’ respective accounts will be changed to reflect the
24 Debtors’ status as a "debtor-in-possession". Second, the Debtors will work with Umpqua
25 to ensure that no pre-petition checks or other pre-petition claims are honored. The cash
26 management system with respect to the Debtors’ respective bank accounts, with these
27 changes, would remain in place subject to further order of this Court.

1 Subject to a prohibition against honoring prepetition checks or offsets without
2 specific authorization from this Court, the Debtors request that they be authorized to
3 maintain and continue the use of the Debtors' Accounts in the same manner and with the
4 same account numbers, styles, and document forms as those employed during the
5 prepetition period.

6 As part of the relief requested, the Debtors also seek a waiver of the requirement by
7 the United States Trustee for Region 17 to establish specific bank accounts for tax
8 payments. *See* Region 17 United States Trustee Guidelines, § 4.4.6(a)(2). The Debtors
9 believe that tax obligations can be paid most efficiently pursuant to its existing cash
10 management system, that the U.S. Trustee can adequately monitor the flow of funds into,
11 among, and out of the Debtors' Accounts through the Debtors' required monthly operating
12 reports, and that the creation of new debtor in possession accounts designated solely for
13 tax obligations would be unnecessary and inefficient.

14 **D. Benefits of the Cash Management System**

15 The existing cash management system is efficient and effective. It will be
16 disruptive to the Debtors' ongoing business operations to shut the existing system down
17 and close the Debtors' Accounts. Such a disruption would require the Debtors to dedicate
18 its scarce human resources to opening approximately nearly thirty new bank accounts,
19 informing the tenants of the PFI Real Properties of the new account to which rent should
20 be paid, and making arrangements to pay vendors from those new accounts – all with no
21 corresponding benefit to creditors. A drastic shift in the cash management system would
22 likely confuse the numerous residents and businesses that are tenants at the PFI Real
23 Properties and the various providers of services to the PFI Real Properties, disrupt the flow
24 of rental revenue from the PFI Real Properties, and distract the Debtors from ensuring
25 stable day-to-day operations as the PFI Real Properties. Some tenants might mistakenly
26 mis-direct their rental payments to a recently-closed account or fail to make a timely rental
27 payment because they are uncertain where it should be sent. Similarly, some service
28 providers may delay or cease providing maintenance and other services to the PFI Real

1 Properties. In addition, requiring PISF to close the dormant PISF Business Operating
2 Accounts would provide no benefit to any party in interest, but would distract the Debtors'
3 current leadership from attending to other, more pressing property management and
4 reorganization issues. The resulting effects could be devastating to the Debtors' efforts to
5 preserve their assets by ensuring that all property management functions continue
6 uninterrupted, including collection of rent, ongoing leasing, and onsite maintenance and
7 repairs. The PFI Real Properties are of key value to all parties in interest in the Debtors'
8 bankruptcy cases and preserving their continued operations is critical.

9 The continuation of the Debtors' existing cash management systems, subject to the
10 protections described above with respect to the Debtors' Accounts, are more than adequate
11 to protect creditors, the Debtors' respective estates and parties in interest.

12 IV.

13 ARGUMENT

14 A. Maintenance of the Debtors' Accounts Should Be Approved.

15 A request for authority to continue using existing cash management with respect to
16 the bank accounts is considered a "simple matter" and bankruptcy courts routinely grant
17 such requests. *See In re Baldwin United Corp.*, 79 B.R. 321, 327 (Bankr. S.D. Ohio 1987);
18 *see also In re The Charter Co.*, 778 F.2d 617, 621 (11th Cir. 1985) (finding use of pre-
19 petition cash management system was consistent with Bankruptcy Code). The Court is
20 authorized to grant the relief requested pursuant to § 105(a) of the Bankruptcy Code,
21 which provides that the Court "may issue any order, process, or judgment that is necessary
22 or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a).

23 The continued use of the Debtors' Accounts as part of the cash management system
24 will benefit the Debtor's creditors and estate because it will allow for the seamless and
25 continuous operation of the Debtor's business and ease the burden on the Debtor's already
26 taxed workforce. The Debtor has brought this Motion on an emergency basis because the
27 continued use of the Debtors' Accounts is important to its ability to operate and focus on
28 its reorganization.

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V.

EMERGENCY CONSIDERATION

The Debtors respectfully request emergency consideration of this motion pursuant to Bankruptcy Rule 6003, which empowers a court to grant relief within the first 21 days after the commencement of a chapter 11 case “to the extent that relief is necessary to avoid immediate and irreparable harm.” As previously discussed in this motion, without entry of an order granting the relief requested herein, the Debtors would need to immediately begin closing their nearly ninety existing bank accounts and opening new replacement accounts, which would likely create confusion for the Debtors’ tenants, hinder PFI’s ability to timely collect rents on the PFI Real Properties, disrupt payments to vendors that provide services to the PFI Real Properties, and cause other disturbances to the Debtor’s operations and the operations at the PFI Real Properties, all without any clear benefit to creditors. Accordingly, the Debtors respectfully submit that they have satisfied the “immediate and irreparable harm” standard of Bankruptcy Rule 6003 and, therefore, respectfully request that the Court approve the relief requested in this Motion on an emergency basis.

VI.

REQUEST FOR BANKRUPTCY RULE 6004 WAIVERS

The Debtors respectfully request a waiver of any applicable notice requirements under Bankruptcy Rule 6004(a) and any stay of the order granting the relief requested herein pursuant to Bankruptcy Rule 6004(h). As explained above and in the Hogan Declaration, the relief requested herein is necessary to avoid immediate and irreparable harm to the Debtors. Accordingly, ample cause exists to justify the waiver of the notice requirements under Bankruptcy Rule 6004(a) and the 14-day stay imposed by Bankruptcy Rule 6004(h), to the extent such notice requirements and such stay apply.

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Dated: July 30, 2020

Bv /s/ Ori Katz
ORI KATZ
J. BARRETT MARUM
MATT KLINGER
GIANNA SEGRETTI

Proposed Counsel for Debtors

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In re
PROFESSIONAL FINANCIAL
INVESTORS, INC., a California
corporation; PROFESSIONAL
INVESTORS SECURITY FUND, INC., a
California corporation,

Debtor.

Case No. 20-30604
(Jointly Administered with Case No. 20-
30579)

Chapter 11

**[PROPOSED] ORDER APPROVING
DEBTORS' EMERGENCY MOTION
FOR AN ORDER AUTHORIZING
DEBTORS TO MAINTAIN THEIR
EXISTING BANK ACCOUNTS AND
APPROVING DEBTORS'
CONTINUATION OF THEIR CASH
MANAGEMENT SYSTEM**

Date: August 5, 2020

Time: TBD

Judge: Hannah L. Blumenstiel

Place: **Telephonic/Video Appearances
Only**

450 Golden Gate Avenue
16th Floor, Courtroom 19
San Francisco, CA 94102

*The Debtors' Emergency Motion For An Order Authorizing Debtors To Maintain
Their Existing Bank Accounts And Approving Debtor's Continuation Of Their Cash
Management System* (the "Motion"), filed on July 30, 2020 as Docket No. __ by
Professional Financial Investors, Inc. ("PFI") and Professional Investors Security Fund,
Inc. ("PISF") and, together with PFI, the "Debtors"), the debtors in the above-captioned
bankruptcy cases, came before the Court for hearing on August __, 2020 at __ .m.
Appearances were as noted on the record. Based upon the Court's review of the Motion,
the declarations and other pleadings filed in support of the Motion, the arguments of
counsel at the hearing on the Motion, and all pleadings and evidence of record in this case,

1 IT IS HEREBY ORDERED THAT:

2 1. The Motion is GRANTED. Capitalized terms not defined in this Order shall
3 have the meanings given to them in the Motion.

4 2. The Debtors are authorized, but not directed, to maintain the Debtors'
5 Accounts and continue the use of those accounts in the same manner and with the same
6 account numbers, styles and document forms as those employed during the prepetition
7 period, subject to the following:

- 8 a. The signature cards on all of the Debtors' Accounts shall be changed
9 to reflect the Debtors' "debtor-in-possession" status;
- 10 b. The Debtors are authorized to open any new bank accounts and close
11 bank accounts consistent with this Order so long as the Debtors
12 provide notice to the U.S. Trustee and any official committee of
13 unsecured creditors that may be appointed in this case; and.
- 14 c. The Debtors are not authorized to make any payment on account of
15 pre-petition debts, except as may be expressly authorized by further
16 order of this Court, no checks or transfers issued on the Debtors'
17 Accounts pre-petition on account of pre-petition debts or obligations
18 and presented for payment post-petition shall be honored or paid, and
19 the Debtors shall provide Umpqua with a list identifying such
20 outstanding pre-petition checks or transfers so that it is clear which
21 checks or transfers may not be paid;

22 3. The Court finds the protections described above adequately protect creditors,
23 the Debtors' respective estates, and parties in interest.
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1 4. The requirements for immediate entry of this Interim Order pursuant to
2 Bankruptcy Rule 6003(b) have been satisfied.

3 5. The requirements of Bankruptcy Rules 4001(d) and 6004(a) are waived.

4 6. Notwithstanding the provisions of Bankruptcy Rules 4001(a)(2) and 6004(h),
5 this Interim Order shall be immediately effective and enforceable upon its entry.

6 7. A final hearing to consider the relief requested in the Motion shall be held on
7 [_____] at [_____] (prevailing Pacific Time) and any objections or
8 responses to the Motion shall be filed and served so as to be actually received on or prior
9 to [_____] at [_____] (prevailing Pacific Time).

10 8. The Court retains jurisdiction over the matters arising from or related to the
11 interpretation or implementation of this Order.

12 *****END OF PROPOSED ORDER*****

EXHIBIT B

EXHIBIT B

PFI REAL PROPERTY-RELATED OPERATING ACCOUNTS			
Bank	Account Name/Description	Account Number	Description
Umpqua Bank	1 Hammondale	XXXXX9668	Operating
Umpqua Bank	107 Marin	XXXXX1763	Operating
Umpqua Bank	1129 3rd Street Apartments	XXXXXX6841	Operating
Umpqua Bank	117 to 121 Paul Drive	XXXXXX2461	Operating
Umpqua Bank	1222 Glenwood Apts	XXXXXX3125	Operating
Umpqua Bank	1315 Rafael Gardens	XXXXXX5643	Operating
Umpqua Bank	1506 Vallejo	XXXXXX8965	Operating
Umpqua Bank	16914 Sonoma 4869701682	XXXXXX1682	Operating
Umpqua Bank	30-42 Clay Court	XXXXX0740	Operating
Umpqua Bank	350 Ignacio Condo Assoc	XXXXXX6163	Operating
Umpqua Bank	353 Bel Marin Keys	XXXXXX2589	Operating
Umpqua Bank	355 Boyes Redwood Manor Apartments	XXXXXX1478	Operating
Umpqua Bank	390 Woodland Apartments	XXXXXX8839	Operating
Umpqua Bank	419 Prospect Drive	XXXXXX5799	Operating
Umpqua Bank	501 Ignacio	XXXX7498	Operating
Umpqua Bank	7200 North Bay Center	XXXXXX6136	Operating
Umpqua Bank	885 Broadway	XXXXX1771	Operating
Umpqua Bank	Duffy Place	XXXXX5375	Operating
Umpqua Bank	Gate 5	XXXXX6910	Operating
Umpqua Bank	Ignacio Lane Apartments	XXXXX0575	Operating
Umpqua Bank	Merrydale 4866807177	XXXXXX7177	Operating
Umpqua Bank	PFI dba 515 B Street	XXXXXX8278	Operating
Umpqua Bank	PFI dba Santaland	XXXXXX7823	Operating
PFI OPERATING ACCOUNTS			
Bank	Account Name/Description	Account Number	Description
Umpqua Bank	PFI Clearing Account	XXXXXX7399	Operating
Umpqua Bank	PFI General 20112763	XXXX2763	Operating
PISF OPERATING ACCOUNTS			
Bank	Account Name/Description	Account Number	Description
Umpqua Bank	PISF Inc 11001849	XXXX1849	Operating
Umpqua Bank	PISF Transfer Account	XXXXXX1054	Operating
Umpqua Bank	New clearing account	XXXXX1599	Operating